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SIPDIS

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SUBJECT: GOE ATTEMPTS TO GET PAST COURT ISSUE

11. (SBU) Summary: Supported by a pro-government march of 10,000, President Gutierrez introduced his referendum proposals in Congress on January 21. The reforms include a method to select a new Supreme Court and other judicial institutions. Already sensing opposition to his referendum from within his alliance, Gutierrez has signaled that should Congress block the referendum, he would try to bypass that institution. Gutierrez used his January 14 state of the nation speech to cite his government's accomplishments and reaffirm his government's commitment to propose a neutral method to replace current judicial institutions. He then left for New York, where he reportedly convinced financiers to approve new and cheaper lending for Ecuador.

12. (SBU) The political opposition, perhaps sensing citizen disinterest in the court issue, is attempting to mobilize street protests around other issues. Guayaquil mayor Jaime Nebot is planning a citizen's march on local issues for January 26; the indigenous leadership has signaled it will focus any call for protests on opposing an FTA with the U.S. Despite support from a cross section of civil society, opponents of the new Supreme Court have not been able to mobilize significant numbers to oppose it. Instead, they have organized media-grabbing events, including a "honk to reject the justices" event outside the court, and, on January 20, a "funeral march for the constitution," which attracted 2,000. Former VP and perennial presidential candidate Leon Roldos is seeking one million signatures for a rival referendum. Perhaps acceding to these pressures, the new Supreme Court president resigned on December 13. End Summary.

Gutierrez Declares Victory and Departs for NYC

13. (U) In his January 14 annual state of the nation address, President Gutierrez claimed credit for a long list of advances, grouped by the following themes:

- fight against corruption and impunity
- fight against poverty and unemployment
- increased productivity and competitiveness
- increased security (social, judicial, environmental, and citizen)
- pragmatic foreign policy and political reform

14. (U) Gutierrez claimed credit for record low inflation rates in 2004, the highest GNP growth rate in the region, and the government's fiscal discipline and refusal to raise basic commodity prices. Gutierrez singled out his government's belief that an FTA with the U.S. would bring benefits for all Ecuadorians, and touted his government's good relations with the U.S., Peru and Colombia. He also acknowledged USG support on a number of fronts (including northern border development projects). The message was roundly applauded and frequently interrupted with pro-government chants. The government had seeded the auditorium with Gutierrez supporters.

Referendum Already In Trouble?

15. (SBU) Gutierrez traveled to New York on January 15 to meet with bankers and creditors. From a press conference there, Gutierrez signaled that he knows his referendum may be in trouble in Congress. Should Congress fail to act on his proposal quickly, he said, the government would consider employing a "Plan B" to reform the courts. This unspecified alternative plan would not require Congressional approval. Upon his return to Ecuador, Gutierrez submitted his eight-question referendum proposal to Congress, and was supported by a staged pro-government march of 10,000, according to police sources.

Dueling Marches

16. (SBU) Guayaquil Mayor Jaime Nebot (PSC) is organizing a "pro-security" march for January 26, to protest the central government's disallowance of municipal hiring of private security guards and other local issues. PSC leader Leon Febres-Cordero will reportedly not participate. The Ecuadorian Roldosista Party (PRE) has vowed to organize its own rival march for the same date and time. Authorities seek

to separate the two to prevent conflict. Meanwhile, in a fit of pique over a perceived slight from the president, VP Alfredo Palacio told the press on January 13 that he might organize his own (as yet unscheduled) anti-government march. The VP's anti-government ruminations were played up by the media.

17. (SBU) Indigenous leaders are sending mixed signals on whether they will mobilize to challenge or protest the court issue. CONAIE President Luis Macas has alternately called for other social groups to join CONAIE in forming a "parallel government," and signaled that CONAIE would reserve efforts to mobilize its base for higher priority issues (i.e. opposing an FTA with the U.S.). Pachakutik congressional leader Carlos Gonzalez told PolOfs on January 13 that no anti-government protests were currently planned, and that the FTA remained the indigenous movement's highest priority. Civil Society Efforts Start Small

18. (SBU) Several notable efforts have been launched by civil society to protest Congress' action on the courts, but these protests have not coalesced around a unified response. The Episcopal Conference of Bishops quickly and publicly rejected Congress' move to replace the Supreme Court and has expressed public support for a referendum on the subject. An umbrella group calling itself the Civic Convergence for Democracy is protesting the permanence of the new court by holding attention-grabbing events for the media, including a "honk for new justices" event on January 19 and a "funeral for the constitution" march on January 20. Former Vice President Leon Roldos, meanwhile, has proposed his own referendum on the court and other unrelated issues, and hopes to collect a million signatures to force its acceptance by election authorities. Civic Convergence members have privately criticized Roldos' effort, pointing out that the constitution prohibits private citizens (but not the government) from raising constitutional issues by referendum.

Comment

19. (SBU) Legal arguments against Congress' December replacement of the Supreme Court coming from civil society groups are gaining coherence and provoking a defensive reaction from the government, but public protest has been limited. The government's proposal to put the issue to a referendum seems more a diversion than a realistic option.

110. (SBU) The political opposition has been hamstrung in seeking to capitalize on this issue by its thoroughly discredited manipulation of the ousted court. Nebot's march could shift the political momentum, but by changing the subject of the march to local issues, has lowered the political stakes. A strong PRE turnout could cancel anti-government momentum further. The VP's posturing is ludicrous (but not unprecedented) and has provoked little public support. Despite lack of consensus here on how to resolve this constitutional issue, we will continue to engage with Congress, civil society and the GoE to encourage efforts to strengthen judicial independence.
Chacon